

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Claims 1-29 are pending in the present application, of which, Claims 1, 13, 23, 26, and 29 are independent claims.

As noted in the Official Action dated October 6, 2004, the previous rejection based upon the disclosure contained in Yourlo has been withdrawn. In addition, a new ground of rejection based upon the disclosure contained in Blum et al. has been set forth in that Official Action. This rejection is respectfully traversed for the reasons presented below.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

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Claims 1-29 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the disclosure contained in U.S. Patent No. 5,918,223 to Blum et al. This rejection is respectfully traversed because the claimed invention as set forth in Claims 1, 13, 23, 26, and 29 and the claims that depend therefrom are patentably distinguishable over the disclosure contained in the Blum et al. document.

Initially, it is respectfully submitted that the allegation that Blum et al. anticipates Claims 1, 13, 23, 26, and 29 is improper as evidenced, for instance, by the ambiguous nature of the rejection. The alleged rejection is ambiguous because the Official Action asserts that Blum et al. discloses “recording a sample of audio data” and then states that this feature is not shown. It appears that Blum et al. does not disclose this feature as the Official Action has not cited to any particular section in Blum et al. alleged to disclose this feature. In addition, this failure in Blum et al. to disclose the feature of recording a sample of audio data, as admitted to in the Official Action, is a clear indication that Blum et al. cannot anticipate the claimed invention as set forth in Claims 1, 13, 23, 26, and 29.

More particularly, the statement in the Official Action that “recording a sample of audio data” is not shown in Blum et al. is clear evidence that the anticipation rejection of Claims 1, 13, 23, 26, and 29 is improper. Clearly, because Blum et al. does not disclose each and every element of the claimed invention as set forth in 1, 13, 23, 26, and 29, Blum et al. fails the test for anticipation. Thus, Claims 1, 13, 23, 26, and 29 are patentably distinguishable over the disclosure contained in Blum et al. and the rejection is improper. The Examiner is thus respectfully requested to withdraw the rejection of Claims 1, 13, 23, 26, and 29 and the claims that depend therefrom for at least the reasons set forth above.

The Examiner is also respectfully requested to withdraw the rejection of all of the pending claims because Blum et al. fails to disclose other features of the claimed invention as set forth in Claims 1, 13, 23, 26, and 29. For instance, Blum et al. does not disclose that a sample time signal is derived from the recorded sample of audio data with an A/D converter as set forth in Claims 1, 13, 23, 26, and 29. In addition, Blum et al. does not disclose that each of a plurality of songs is represented by a time signal.

The “time signal” and the “sample time signal” are described on page 3, lines 10 and 11 of the present Specification as comprising processed audio signals. More particularly, the “time signal” and the “sample time signal” are processed data converted from audio signals by an A/D converter 115. Thus, the A/D converter 115 converts the analog signals obtained from the audio signals into digital form. The “time signal” represents processed data of audio signals from a plurality of songs which may be stored in a database server 125. The “sample time signal” represents processed data of audio signals of music to be identified.

The Official Action alleges that “deriving a sample time signal” is disclosed in Figure 14 of Blum et al. Figure 14 of Blum et al. pertains to an analysis step to capture rhythmic features of the audio into a separate “rhythm feature vector”. (column 15, lines 30-36). There is no clear feature in either the description of Figure 14 or Figure 14 itself that indicates a sample time signal. In addition, the Official Action does not clearly indicate which feature in Figure 14 relates to the sample time signal. Therefore, the basis behind the assertion that Blum et al. discloses a sample time signal is also not clear. In any regard, Blum et al. does not disclose the sample time signal as set forth in the Claims 1, 13, 23, 26, and 29 because Blum et al., for instance, does not appear to disclose an A/D converter for converting analog signals obtained from the recorded audio data into digital form.

Accordingly, Blum et al. clearly fails to disclose the steps of recording a sample of audio data of music to be identified, deriving a sample time signal from the audio data with an A/D converter, sorting a plurality of songs, wherein each song is represented by a time signal, and matching the sample time signal with the time signal of the song in the plurality of songs as set forth in Claim 1 of the present invention.

Blum et al. fails to disclose the elements of Claims 13 and 26 for reasons similar to those set forth hereinabove with respect to Claim 1. For instance, Blum et al. fails to disclose means for deriving a sample time signal from the audio data with an A/D converter. Blum et al. further fails to disclose a means for sorting a plurality of songs, wherein each song is represented by a time signal, and a means for matching the sample time signal with the time signal of a song in the plurality of songs.

With respect to Claims 23 and 29, Blum et al. fails to disclose the elements contained therein for reasons similar to those set forth hereinabove with respect to Claim 1.

As Blum et al. fails to disclose each and every element contained in Claims 1, 13, 23, 26, and 29, Blum et al. cannot anticipate these claims. Accordingly, the Examiner is respectfully requested to withdraw the rejection of Claims 1, 13, 23, 26, and 29 as being anticipated by the disclosure contained in Blum et al. At least by virtue of their dependencies to respective allowable Claims 1, 13, 23, and 26, Claims 2-12, 14-22, 24, 25, 27, and 28 are also allowable over the disclosure contained in Blum et al.

Claims 2-12, 14-22, 24, 25, 27, and 28 are also allowable over the disclosure contained in Blum et al. for reasons in addition to their respective dependencies upon allowable claims. With respect to Claim 2 of the present invention, for instance, Blum et al. fails to disclose that a sample feature vector is generated, that a feature vector for each time

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signal of a plurality of songs is generated, and that the songs are ordered in ascending order based on feature space distance between the sample feature vector and respective feature vectors for each time signal of the songs.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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By



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